

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
DOCUMENT
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DATE FILED: 11/2/2022

PHILIP H. WENTZEL,
Petitioner,

-against-

W.S. FLILER,
Respondent.

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Case No. 21-cv-9245(AT)(JLC)

MOTION TO EXTEND TIME PURSUANT TO
FED. R. CIV. P. 60(b)(A)

Comes now, Philip H. Wentzel, the pro-se, incarcerated petitioner in the above-captioned matter, now moves this Honorable Court for extension of time to file his objections to the Magistrate Judge's Report and Recommendation ("R&R") filed October 17, 2022.

BRIEF HISTORY

On November 5, 2021, Mr. Wentzel, a pro-se and incarcerated person, filed a petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 (Dkt. 1) challenging a disciplinary determination imposed on him at his place of confinement resulting in a loss of good time credit of 27 days.

On December 2, 2021, this case was assigned to this Court (SEE text order 12-21-21, No. 21-cv-9245(AT)(JLC)). Magistrate Judge James L. Cott was ultimately assigned the case for review and recommendation to this Court (Dkt. 9, 12/14/21). On March 23, 2022 the Respondent filed its opposition to the petition (Dkt. 18). Mr. Wentzel then timely filed his answer and response on May 26, 2022 (Dkt 25). On October 17, 2022, Magistrate Judge Cott filed his Report and Recommendation with this Court (Dkt. 28), with objections due by Oct. 31, 2022 (Dkt. 28). Mr. Wentzel did not receive his copy of the R&R until October 25, 2022 at his place of confinement, F.C.I. Otisville.

REASONS FOR EXTENSION OF TIME

Mr. Wentzel intends to file specific, written objections to specific sections and conclusions of the R&R that are erroneous, giving the Court specific notice of his grievances (SEE Fed. R. Civ. P. 72(b)(2)).

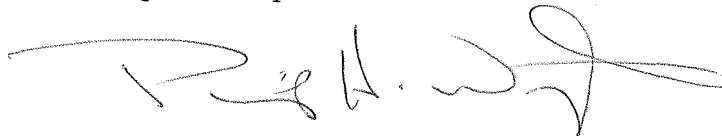
Mr. Wentzel is an incarcerated, pro-se litigant who has no access to the ECF. As such, there continues to be delay in U.S. Mail from the courts reaching Mr. Wentzel. Despite the relative close proximity to the Court in Otisville, it is still taking an average of 6-7 days for Mr. Wentzel to receive mail at F.C.I. Otisville. In this case, 7 of the 14 days - half the time allotted - was taken up by the mail process.

F.C.I. Otisville also continues to operate on the BOP's most severe and restrictive modified "Covid operations" level (Level 3, "RED"), significantly limiting, still, inmates time out of cells, access to the law library, commissary to purchase stamps and envelopes, as well as access to the inmate photocopier and typewriters. Between the "RED" severely modified operations, and frequent lockdowns for fog common to F.C.I. Otisville's location, as well as ongoing mail issues mentioned above, Mr. Wentzel cannot reasonably be expected to properly research, draft, type, photocopy and mail his objections to the Court within the short time remaining before the October 31 deadline for objections.

Therefore, Mr. Wentzel, the petitioner in this matter, respectfully requests a time extension of at least fourteen (14) days beyond the current deadline, which would make his objections due, via prison legal mail, no later than November 14, 2022, or any other beyond the Court deems just and fair.

Dated this 26th day of October, 2022.

Respectfully submitted,



PHILIP H. WENTZEL, pro-se
Petitioner
Reg. #11686-089

GRANTED. By **November 14, 2022**, Plaintiff shall file any objections to the Honorable James L. Cott's report and recommendation, ECF No. 28. The Clerk of Court is directed to terminate the motion at ECF No. 30 and mail a copy of this order to Plaintiff *pro se*.

SO ORDERED.

Dated: November 2, 2022
New York, New York



ANALISA TORRES
United States District Judge